

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

|                                      |                   |                     |
|--------------------------------------|-------------------|---------------------|
| <b>ELYSE UNRATH</b>                  | :                 |                     |
|                                      | <b>Plaintiff,</b> | <b>CIVIL ACTION</b> |
| <b>vs.</b>                           | :                 |                     |
|                                      | :                 |                     |
| <b>STEAK AND ALE OF PENNSYLVANIA</b> | :                 | <b>NO. 02-3191</b>  |
| <b>d/b/a BENNIGAN'S GRILL AND</b>    | :                 |                     |
| <b>TAVERN</b>                        | :                 |                     |
|                                      | <b>Defendant.</b> | :                   |

**O R D E R**

**AND NOW**, this 17<sup>th</sup> day of April, 2003, upon consideration of defendant's Motion for Summary Judgment (Document No. 10, filed March 5, 2003), plaintiff's Response to Defendant's Motion for Summary Judgment (Document No. 11, filed March 17, 2003), and defendant's Reply Brief in Support of Motion for Summary Judgment (Document No. 12, filed March 28, 2003), **IT IS ORDERED** that defendant's Motion for Summary Judgment is **DENIED** on the ground that the parties have presented genuine issues of material fact.

The denial of the Motion for Summary Judgment is based on the following evidence:

1. Plaintiff, Elyse Unrath, was injured on May 15, 2000, when she slipped and fell on a wet floor inside a Bennigan's Grill and Tavern owned and operated by Steak and Ale of Pennsylvania;
2. The fall occurred on a liquid substance in front of a wait station in the restaurant;
3. Because the activity at the wait station included the refilling of glasses of non-alcoholic beverages, spillage and water leakage had occurred in that area on occasions before May 15, 2000;
4. Some time before the day of the accident the restaurant placed a mat in front of the wait station for the purpose of preventing falls in the area;

5. The floor mat was not "where it was supposed to be" at the time of Ms. Unrath's fall – there was no mat in front of the wait station at that time;

6. Customers had complained to a waitress about the wet floor prior to Ms. Unrath's accident, although it is not clear from the record exactly when those complaints were made. Specifically, the record does not disclose whether the complaints were made shortly before the accident or on occasions before the day of the accident, May 15, 2000.

7. The foregoing evidence, not intended to be an all-inclusive summary of the evidence of negligence, presents a genuine issue of material fact as to defendant's negligence.

**BY THE COURT:**

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**JAN E. DUBOIS, J.**